

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

EDDIE BILLINGS, JR.,)	
)	
Plaintiff,)	
)	
vs.)	No. 1:15-cv-01137-TWP-DKL
)	
ANDERSON INDIANA UTILITIES,)	
)	
Defendant.)	

Entry Granting *In Forma Pauperis* Status and Directing Plaintiff to Show Cause

This matter is before the Court on Plaintiff's motion to proceed in *forma pauperis* (Dkt. 2) and the complaint is subject to screening pursuant to 28 U.S.C. § 1915(e)(2)(B).

I. Motion to Proceed in *Forma Pauperis*

Plaintiff Eddie Billings, Jr.'s motion to proceed in *forma pauperis* (Dkt. 2) is **GRANTED**. Notwithstanding the foregoing ruling, Mr. Billings still owes the filing fee. "All [28 U.S.C.] § 1915 has ever done is excuse *pre*-payment of the docket fees; a litigant remains liable for them, and for other costs, although poverty may make collection impossible." *Abdul-Wadood v. Nation*, 91 F.3d 1023, 1025 (7th Cir. 1996).

II. Screening of the Complaint

Mr. Billings complaint is subject to screening pursuant to 28 U.S.C. § 1915(e)(2)(B). This statute requires a court to dismiss a case at any time if the court determines that the action (i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief. *Pro se* complaints such as that filed by Mr. Billings are construed liberally and held to a less stringent standard than formal

pleadings drafted by lawyers. *Erickson*, 551 U.S. at 94; *Obrieht v. Raemisch*, 517 F.3d 489, 491 n.2 (7th Cir. 2008).

Applying these standards, the complaint must be dismissed for lack of jurisdiction. Mr. Billings alleges that the Anderson Indiana Utilities in Anderson, Indiana, incorrectly billed him. Mr. Billings has not sufficiently shown that this Court has jurisdiction over his claims. Subject to esoteric exceptions not implicated by the circumstances of this case, “[a] federal court may exercise jurisdiction where: 1) the requirements for diversity jurisdiction set forth in 28 U.S.C. § 1332 are met; or 2) the matter arises under the Constitution, laws, or treaties of the United States as provided in 28 U.S.C. § 1331.” *Barringer-Willis v. Healthsource North Carolina*, 14 F. Supp. 2d 780, 781 (E.D.N.C. 1998). “‘A case is properly dismissed for lack of subject matter jurisdiction when the court lacks the statutory or constitutional power to adjudicate the case.’” *Home Builders Ass’n of Miss., Inc. v. City of Madison*, 143 F.3d 1006, 1010 (5th Cir. 1998) (quoting *Nowak v. Ironworkers Local 6 Pension Fund*, 81 F.3d 1182, 1187 (2d Cir. 1996)). The Court of Appeals has repeatedly held that “the party invoking federal jurisdiction bears the burden of demonstrating its existence.” *See Hart v. FedEx Ground Pkg. Sys. Inc.*, 457 F.3d 675, 679 (7th Cir. 2006).

Here, there is no allegation of diversity of citizenship. *See Denlinger v. Brennan*, 87 F.3d 214, 217 (7th Cir. 1996) (holding that failure to include allegations of citizenship requires dismissal of complaint based on diversity jurisdiction). In fact, both parties are from Indiana. In addition, there is no allegation of conduct which could support the existence of federal question jurisdiction. *See Williams v. Aztar Ind. Gaming Corp.*, 351 F.3d 294, 298 (7th Cir. 2003)(explaining federal courts may exercise federal-question jurisdiction when a plaintiff’s right to relief is created by or depends on a federal statute or constitutional provision).

II. Conclusion

For the foregoing reasons, the complaint is **dismissed for lack of jurisdiction**. Accordingly, Mr. Billings shall have **through August 21, 2015**, in which to **show cause** why this action should not be dismissed for lack of jurisdiction. Failure to do so will result in the dismissal of the action for lack of jurisdiction.

IT IS SO ORDERED.

Date: 7/24/2015

A handwritten signature in black ink, reading "Tanya Walton Pratt", written over a horizontal line.

TANYA WALTON PRATT, JUDGE
United States District Court
Southern District of Indiana

Distribution:

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